

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

RONALD HAYES,

Plaintiff,

-v-

9:10-CV-1201

THE STATE OF NEW YORK, D.O.C.S.;
C.O. BURCH, Great Meadow Correctional Facility;
C.O. WRIGHT, Great Meadow Correctional Facility;
C.O. JONES, Great Meadow Correctional Facility;
SMITH & WESSON; and THE STATE OF NEW YORK,

Defendants.

APPEARANCES:

RONALD HAYES
02-A-4085
Plaintiff, Pro Se
Elmira Correctional Facility
P.O. Box 500
Elmira, NY 14902

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OF COUNSEL:

KEITH A. MUSE, ESQ.
Ass't Attorney General

CLEM C. TRISCHLER, ESQ.

HOWARD F. STRONGIN, ESQ.

DAVID N. HURD
United States District Judge

DECISION and ORDER

Pro se plaintiff Ronald Hayes brings this action pursuant to 42 U.S.C. § 1983 and New York State products liability laws. On August 27, 2013, the Honorable Randolph F. Treece, United States Magistrate Judge, advised, by Report-Recommendation, that the State defendants' motion for summary judgment be granted in part and denied in part, and that Smith & Wesson's motion for summary judgment be granted in its entirety. Plaintiff and defendant C.O. Wright timely filed objections to the Report-Recommendation. Defendant Smith & Wesson belatedly replied to plaintiff's objections, urging adoption of the Report-Recommendation.

Based upon a de novo review of the portions of the Report-Recommendation to which plaintiff and C.O. Wright objected, the Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. § 636(b)(1).

Therefore, it is

ORDERED that

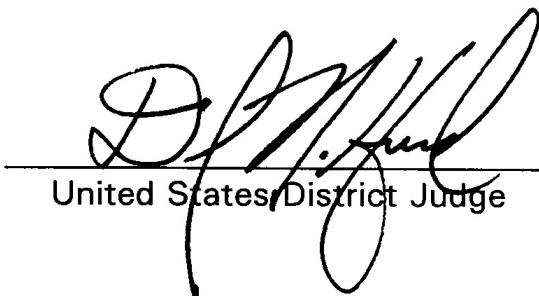
1. D.O.C.S., C.O. Burch, C.O. Wright, C.O. Jones, and the State of New York's motion for summary judgment is GRANTED in part and DENIED in part;
2. D.O.C.S. and the State of New York are DISMISSED from this action;
3. All claims against C.O. Burch, C.O. Wright, and C.O. Jones in their official capacities are DISMISSED;
4. Smith & Wesson's motion for summary judgment is GRANTED;
5. Smith & Wesson is DISMISSED from this action;

6. This matter is referred back to Magistrate Judge Treece for the assignment of trial counsel within thirty (30 days); and

7. Upon the assignment of trial counsel, the matter shall be forwarded to the undersigned for a trial date to be set.

The Clerk is directed to serve a copy of this Decision and Order upon plaintiff in accordance with the Local Rules.

IT IS SO ORDERED.



United States District Judge

Dated: September 18, 2013
Utica, New York.

Plaintiff's excessive force claims remain against C.O. Burch, C.O. Jones, and C.O. Wright.